

EXEMPT ORGANIZATIONS

Sales to exempt and other nonprofit organizations may be taxable. The Sales and Use Tax Law provides specific exemptions for a number of different kinds of organizations and institutions, such as hospitals, schools, churches and libraries. Entities that fall into one of the categories of organizations that qualify for exemption must submit an application to Maine Revenue Services and provide the information and documents specified in the application. The requirements for exempt status vary depending on the particular exemption being applied for.

Permanent Exemption Certificate Use. The exemption certificate may be used only to purchase items that will be used exclusively by the organization for the purposes for which it is organized. It may not be used by members, employees or clergy of the exempt organization to purchase items for their own use. It may not be used to purchase items for resale by the organization. No exempt organization may authorize an affiliated organization or contractor to use its exemption certificate (although a contractor engaged in a contract with an exempt organization may purchase tangible personal property that will be physically incorporated in and become a permanent part of real property belonging to the exempt organization without payment of tax by using the “Contractor’s Exempt Purchase Certificate” set forth in Instruction Bulletin No. 4). The exemption certificate may not be used to purchase items for use by the organization in activities that are mainly commercial enterprises.

Sales to Government Employees. Occasionally we receive reports of state or federal government employees attempting to make purchases without paying Maine sales tax, on the basis that they are engaged in government business or that they will be reimbursed for the cost of the purchase by a government agency. There is no exemption in the Maine Sales and Use Tax Law for purchases of this kind, except as stated below, and retailers will be held responsible for collecting and remitting the sales tax on sales to government officials and employees.

Certain employees of the federal and state government have been issued special credit cards. If such credit cards are billed directly to and paid for by the government or agency, the purchases are exempt from Maine sales tax. However, governmental agencies also issue credit cards to employees that will be billed and paid for by the employees. Purchases made using these types of credit card are **not** exempt from Maine sales tax. Although for official government use, the purchases are billed to the individual identified on the card. These are not sales to the government or agency and such sales are taxable.

Sales to organizations that are not government agencies are exempt only if the organization furnishes the seller with a copy of the Certificate of Exemption issued to that organization. It is not necessary for the seller to obtain a copy of the exemption certificate each time a sale is made to that organization. The seller should obtain a copy of the certificate from every organization to which exempt sales are made, and note the exemption number of the organization on each sales slip or invoice.

Cash Sales to Exempt Organizations. On a similar note, we have had inquiries regarding instances where members of schools, churches, hospitals and other exempt organizations purchase goods with cash, personal check or personal credit card and claim that the purchase is for the organization and exempt from tax. Maine Revenue Services had contacted a number of retailers and instructed them that such sales were to be treated as taxable. After further consideration, M.R.S. has determined that if the purchaser presents a purchase order from the organization issued to the retailer for the specific purchase, the sale would be exempt. The purchase order, along with the organization's exemption certificate, must be kept by the seller to document the exempt sale. Otherwise, sellers are advised that cash sales will be considered taxable. Purchases by exempt organizations which pay with an organization check, organization credit card or through an established store credit account continue to be exempt provided the seller has obtained the organization's exemption certificate.

The exemption certificate must be taken in good faith by the seller. The good faith of the seller will be questioned if the seller has knowledge of facts that would lead to a reasonable inference that the purchase is not the holder of the exemption certificate, or that the property being purchased is not for use exclusively by the organization for a purpose consistent with the terms of the exemption. Misuse of exemption certificates by organizations or individuals is subject to prosecution.

The Sales and Use Tax Law does not provide a general exemption for nonprofit organizations. There are many legitimate civic, charitable and fraternal organizations that do not qualify for any exemption in the law and which consequently must pay sales and use taxes on all their purchases.

The Sales and Use Tax Law also exempts sales to the United States government, the state of Maine and political subdivisions of the state of Maine (such as counties, cities and towns), including sales to agencies of these governments. The only evidence of exemption required for sales to any of these governments is the invoice of the seller showing that the sale was made directly to the government agency. An agency of government should seek an ST-L-128 letter from Maine Revenue Services confirming their exempt status. **Sales to other states and their agencies and subdivisions are taxable.**

For additional information on any of the above topics, or for assistance with any matter relating to the Maine sales or use tax, please don't hesitate to contact us. Our mailing address is Maine Revenue Services, P.O. Box 1065, Augusta, ME 04332-1065. Our telephone number is (207) 624-9742 or (207) 624-9573.